

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEBRASKA**

**UNITED STATES OF AMERICA,**

**Plaintiff,**

**VS.**

**MARCUS WRIGHT-PAYNE,**

**Defendant.**

**CASE NO. 8:13CR328**

## TENTATIVE FINDINGS

The Court has received the Revised Presentence Investigation Report and Addendum (“PSR”). The government has not objected to the PSR. The Defendant filed “Defendant’s Position Statement Re: Revised Presentence Investigation Report” (Filing No. 45) representing that the PSR reflects the objections and contentions of the Defendant, and that those objections and contentions are listed in the Addendum to the PSR. The Defendant also filed a Motion for Variance and supporting brief (Filing Nos. 46 and 47). See Order on Sentencing Schedule, ¶ 6. The Court advises the parties that these Tentative Findings are issued with the understanding that, pursuant to *United States v. Booker*, 543 U.S. 220 (2005), the sentencing guidelines are advisory.

Accordingly,

IT IS ORDERED:

1. The Defendant's Position Statement Re: Revised Presentence Investigation Report" (Filing No. 45) will be heard at the sentencing hearing;
2. The Court intends to adopt the PSR in all other respects;
3. If **any** party wishes to challenge these tentative findings, the party shall immediately file in the court file and serve upon opposing counsel and the Court a motion challenging these tentative findings, supported by (a) such evidentiary materials as are

required (giving due regard to the requirements of the local rules of practice respecting the submission of evidentiary materials), (b) a brief as to the law, and (c) if an evidentiary hearing is requested, a statement describing why an evidentiary hearing is necessary and an estimated length of time for the hearing;

4. Absent submission of the information required by paragraph 3 of this Order, these tentative findings are final;

5. The Defendant's Motion for Variance (Filing No. 46) will be heard at sentencing; and

6. Unless otherwise ordered, any motion challenging these tentative findings shall be resolved at sentencing.

DATED this 10<sup>th</sup> day of March, 2014.

BY THE COURT:

s/Laurie Smith Camp  
Chief United States District Judge